

**Award No. 1927**

**Docket No. 1868**

**2-UP-SMW-'55**

**NATIONAL RAILROAD ADJUSTMENT BOARD**

**SECOND DIVISION**

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**PARTIES TO DISPUTE:**

**SYSTEM FEDERATION NO. 105, RAILWAY EMPLOYES'  
DEPARTMENT, A. F. of L. (Sheet Metal Workers)**

**UNION PACIFIC RAILROAD COMPANY**

**DISPUTE: CLAIM OF EMPLOYES:** 1. That under the current Agreement Sheet Metal Worker Helper Robert Clark of Salt Lake City, Utah, was unjustly dealt with when he was unjustly suspended and unjustly withheld from service since September 24, 1953.

2. That accordingly the Carrier be ordered to:

- a) Restore the aforesaid Sheet Metal Worker Helper to service with seniority rights unimpaired.
- b) Compensate this employe for all wage loss retroactive to September 24, 1953.

**EMPLOYES' STATEMENT OF FACTS:** Mr. Robert Clark, hereinafter referred to as the claimant, was employed in Water Service Gang No. 1251 as sheet metal worker helper by the carrier on May 19, 1952, and was in continuous service until his removal from service by water service foreman on September 24, 1953.

The carrier's division engineer directed the claimant to appear for investigation and hearing at 1:00 P. M. October 5, 1953, nearly two weeks after he had been discharged for alleged violation of Rule 700 and 702, which is affirmed by copy of letter of October 1, 1953, and submitted herewith and identified as Exhibit A.

The hearing was held at 2:00 P. M., Monday, October 5. A copy of the hearing transcript is submitted herewith and identified as Exhibit B.

The carrier elected through its division engineer to dismiss the claimant from the service of the carrier, which is affirmed by letter of Division Engineer R. M. Brown, dated October 12, 1953, submitted herewith and identified as Exhibit C.

The copy of the transcript of the personal record of the claimant is submitted herewith and identified as Exhibit D.

This dispute has been handled with the carrier up to, and including, the highest officer so designated by the company, with the result that he has declined to adjust it.

man's allegations to that effect. Certainly there is no indication of any such discrimination or persecution in the transcript of the hearing, which the claimant and his representatives, themselves, admitted was satisfactory and in accordance with the rules of the agreement.

It is noteworthy, moreover, that there has been no charge that any of the carrier's officials were guilty of any such persecution or discrimination towards Clark. The charges in question have been directed at various fellow employes. Such charges, even if true, would not have any bearing upon the propriety of the discipline assessed by an official of the carrier upon the basis of rule violations proven in an admittedly satisfactory and proper hearing. Even if there had been some intra-employee difficulties, it could not affect the validity of the discipline assessed by an official in regard to whom the claimant does not even charge any discrimination or partiality.

Discipline was properly assessed and this request for removal thereof is unjustified. It is requested that the claim be denied.

**FINDINGS:** The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to the dispute were given due notice of hearing thereon.

In this case, discipline was properly imposed. We are of the opinion, however, that considering all of the circumstances of this case, claimant should be reinstated with seniority unimpaired without pay for time or wage loss.

#### AWARD

The claimant shall be reinstated with seniority unimpaired. His claim for time or wage loss is denied.

NATIONAL RAILROAD ADJUSTMENT BOARD  
By Order of Second Division

ATTEST: Harry J. Sassaman  
Executive Secretary

Dated at Chicago, Illinois, this 12th day of May, 1955.